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GROUP 3600

Docket: 64

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named

Inventor:

John G. Spakousky

Appln. No.:

09/390,435

Filing Date:

September 7, 1999

Title:

**COMPOSITE BUILDING BLOCK WITH
CONNECTIVE STRUCTURE**

Examiner:

P. Tran A

Group Art Unit: 3637

Commissioner for Patents
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R. § 1.132

Dear Sir:

11/20/2002 DTESSEM1 00000014 041420 09390435

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Stephen P. Samaha declares as follows:

1. I have a bachelor's degree in architecture and I am an associate member of the American Institute of Architects (AIA). I have 10 years of experience in the manufacture of masonry block and brick units. I also have 15 years of experience in the construction of structures utilizing masonry block and brick units. I hold a certification by the National Concrete Masonry Association as a consultant of concrete masonry (CCCM) and a registered construction documents technologist certification (CDT) with the Construction Specifications Institute. Additionally, I have participated in the writing of codes and standards for the masonry industry through the American Society of Testing and Materials (ASTM). I am currently the Vice President of Marketing at Pentstar Corporation, the assignee of U.S. Patent Application No. 09/390,435.

2. I have read U.S. Patent Application No. 09/390,435 and I am familiar with the masonry blocks and the connective structure described therein. I further understand and have observed at construction sites where blocks made in accordance with the above-identified application have been used to build walls (see Photographs 1, 2 and 3 attached as Exhibit A), that each block is discrete. That is, each block is a separate unit that is lifted and placed by itself in a wall structure with other adjacent blocks of the same type. In placing the blocks, the mason uses mortar

applied to the top, bottom and sides of the faces to make connections between adjacent blocks. When installed in a wall, the connective structure of any block is free of any direct structural connection to any adjacent block.

3. In Photograph 1, arrow A indicates a stack of blocks that are made in accordance with the above-identified application and are pre-assembled, discrete and awaiting individual placement in the wall structure referred to by arrow B. The wall structure, referred to by arrow B, shows that the connective structure of any block is free of any direct structural connection to any adjacent block when the blocks are installed in a wall. Arrows C indicate mortar joints that are used to connect the adjacent blocks.

4. In Photograph 2, arrow A indicates a discrete block being lifted into place by its connective structure. Arrow B indicates a layer of mortar that will form the mortar joint between the block being placed and the blocks already forming the wall structure. Arrow C shows mortar joints between adjacent blocks made in accordance with the above-identified application.

5. In Photograph 3, masons (indicated by arrows A) are each carrying, by the connective structure, blocks made in accordance with the above-identified application. Arrows B indicate stacks of blocks that are pre-assembled, discrete and awaiting individual placement in a wall. Arrows C indicate walls or portions of walls being built with blocks made in accordance with the above-identified application.

6. I have studied the Hopkins reference (U.S. Patent No. 1,226,214), which I understand has been cited as prior art in connection with the above-identified application and which "relates to the construction of walls and slabs by pouring concrete into permanent molds." *Hopkins*, p. 1, col. 1, ll. 8-10. The permanent wall molds of Hopkins are built from face blocks 1, 2 that are secured together in pairs by a connective structure. The connective structure is constructed of several types of interlocking concrete connecting blocks, which are longitudinal interior blocks 3, intermediate connecting blocks 4, and upper and lower connecting blocks 5, 6.

7. Unlike Applicant's invention, Hopkins does not teach or suggest a connective structure or a block unit comprising a connective structure "wherein the connective structure is free of direct, structural connection to any wall of each adjacent block unit when the block unit is in a wall structure." *see, Applicant's claims 1, 17 and 35*. Instead, Hopkins teaches maintaining the structural integrity of wall molds by interconnecting each pair of face blocks 1, 2 with its vertically adjacent pairs of face blocks 1, 2. For all pairs of face blocks 1, 2 in the Hopkins wall mold structure, even those located in the top and bottom courses of the wall mold, there are connective structure interconnections between vertically adjacent pairs of face blocks 1, 2. These interconnections are achieved by intermediate connecting blocks 4 that run from course to course.

8. Because Hopkins does not teach or suggest the use of mortar or any other method for maintaining the position of each pair of face blocks 1, 2 relative to the adjacent pairs of face blocks 1, 2 before the internal concrete pour, it is necessary that Hopkins utilize intermediate connecting blocks 4 to interconnect each pair of face blocks 1, 2 to each vertically adjacent pair of face blocks 1, 2. This is particularly true given the unsymmetrical and changing forces that would arise as liquid concrete is poured into the volume between the face blocks 1, 2.

9. For at least two reasons, I do not interpret the Hopkins patent to teach or suggest a connective structure or a block unit comprising a connective structure "free of direct, structural connection to any wall of each adjacent block unit when the block unit is in a wall structure," as described in Applicant's claims 1, 17 and 35. First, to do so would require focusing only on the upper and lower connecting blocks 5, 6 that Hopkins shows at the top edge or bottom edge of the wall mold portrayed in Figure 1, where it is impossible to have adjacent pairs of face blocks 1, 2, both above and below. Second, to do so would require ignoring the necessity in Hopkins for the course-to-course overlapping position of Hopkins' intermediate connecting blocks 4; this is the very aspect of the connective structure that allows the unmortared, stacked pairs of face blocks 1, 2 to be utilized in making a wall mold that has the structural integrity to withstand a concrete pour.

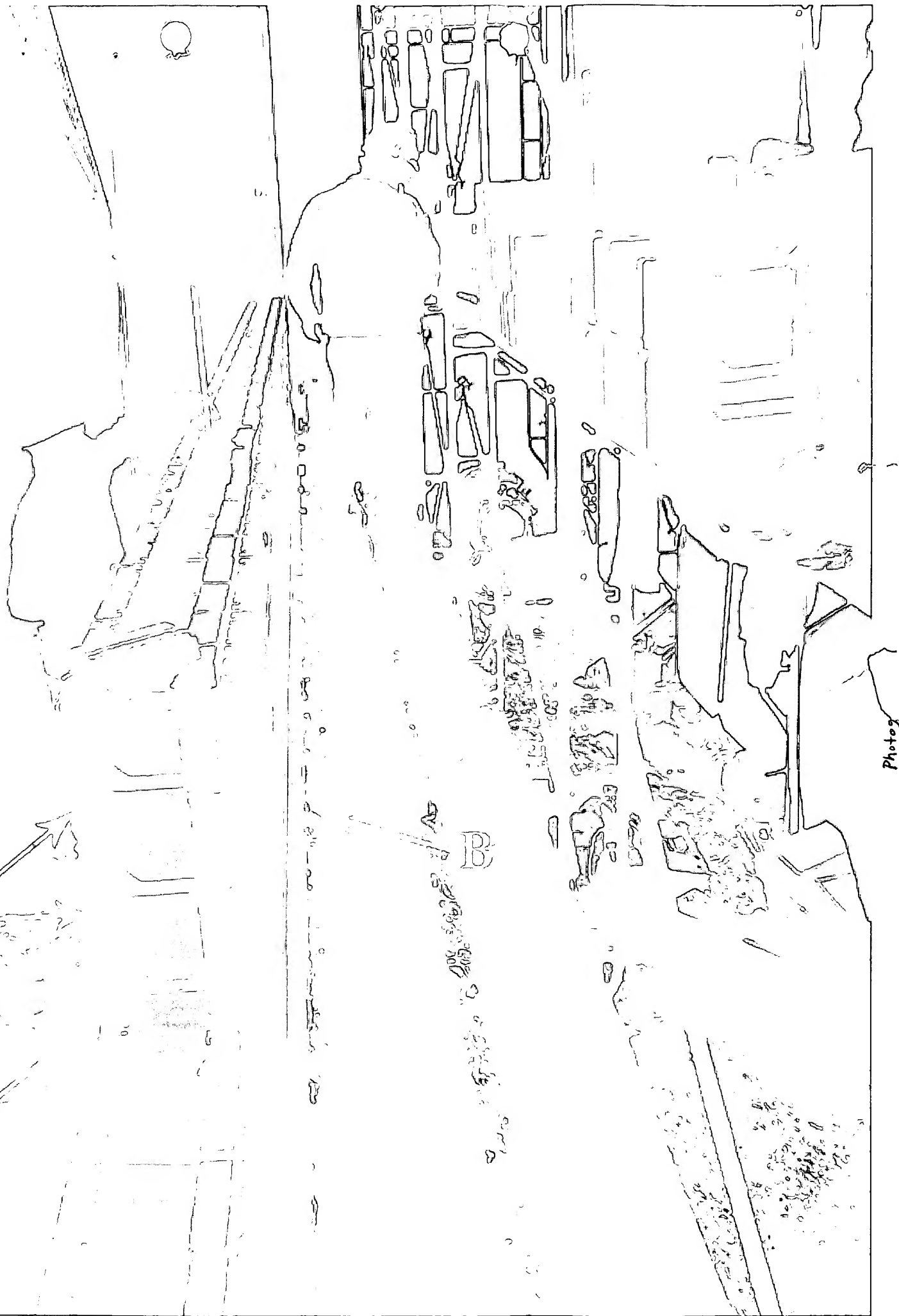
10. I also do not believe that Hopkins teaches any block structure that permits independent placement of an opposed pair of face blocks 1, 2 joined by any connective structure. No figure in Hopkins shows an assembled unit with opposed face blocks 1, 2 and a connective structure in isolation. No figure or discussion states that any such unit can be assembled and independently placed. I do not believe that any mason or other person skilled in the art would attempt to take a pair of opposed face blocks 1, 2 as shown by Hopkins, combine them with the connective elements 3, 4, 5 and 6, and create a unit for independent placement.

11. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Date: 11/7/2002

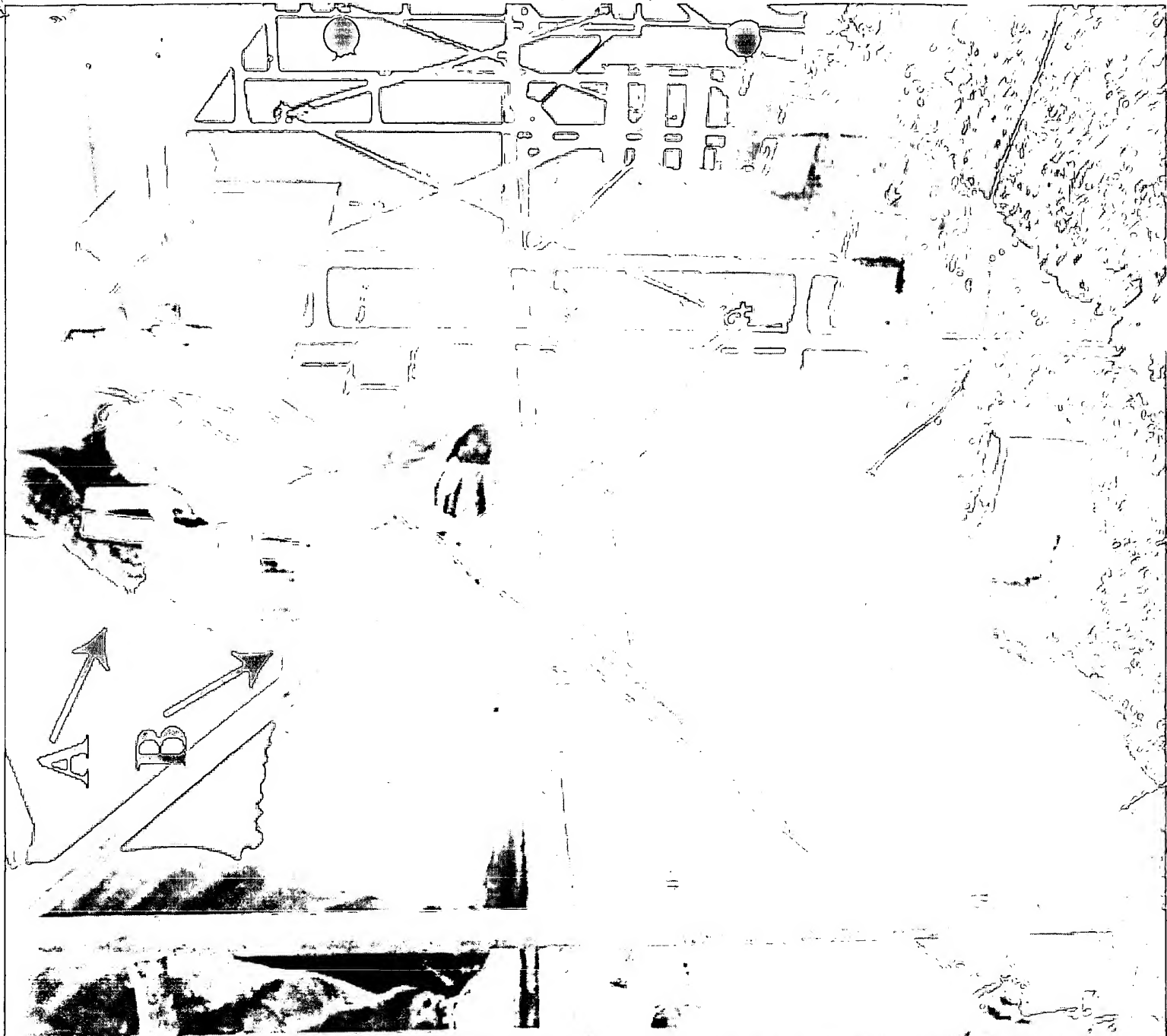

Stephen P. Samaha

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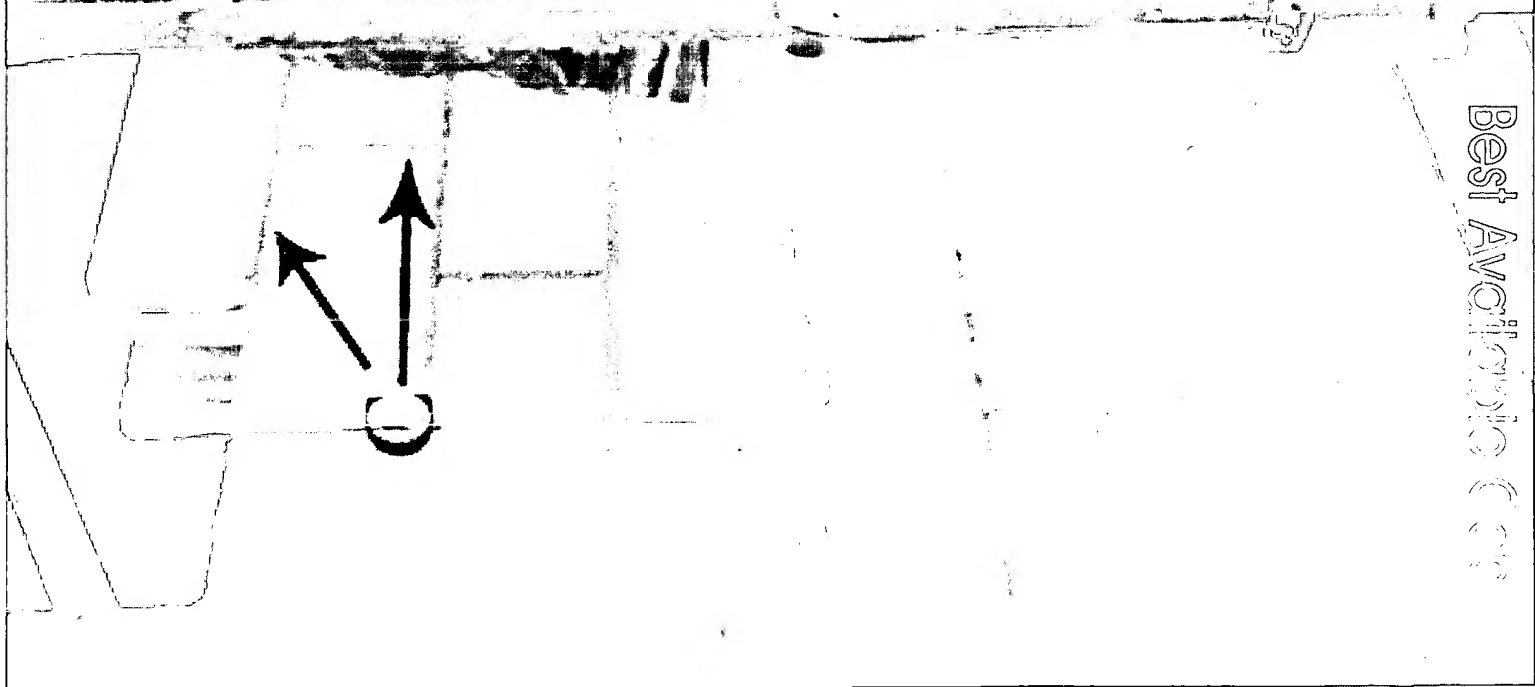


Photograph 1

Photograph 2



Photo



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